

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
ARIZONA
TUCSON FIELD OFFICE
April 11, 2005

EA #: AZ-420-2005-005

Project Name: LUTZ ADVENTURE TOURS, LLC; DBA ARIZONA ATV ADVENTURES,
SPECIAL RECREATION PERMIT (SRP # AZA-32178)

Contact Person: Francisco J. Mendoza

Legal Description and Map Name: Public land administered by the BLM in the White Canyon Resource Conservation Area (RCA), in the vicinity of Box Canyon, Martinez Canyon and Cottonwood Canyon, northeast of the town of Florence, Pinal County, Arizona. The general location is T2S R11E Secs. 27, 28, 33; T3S R11E Secs. 3, 4, 10, 11, 14, 15, 20, 21, 22, 23, 24, 25, 27, 29, 30, 31, 34; T3S R12E Secs. 18, 19; T4S R10E Secs. 18 and 19; T4S R11E Secs. 4, 7, 8, 9 of the Gila & Salt River Principal Meridian. The area is covered by the Mineral Mtn. and North Butte 7.5' USGS quadrangles. Map 1 shows the proposed access and tour routes.

I. INTRODUCTION

Background: Lutz Adventure Tours, LLC (formerly Chandelle Adventure Tours) doing business as Arizona ATV Adventures has operated All Terrain Vehicle (ATV) tours in the proposed use area since the winter of 2003 under SRP AZA-32178. An environmental assessment was prepared (EA # AZ-060-2002-0040, decision record January 21, 2003) for the tours, and special stipulations were identified to mitigate potential resource damage concerns and use conflicts. During the past two operating seasons, the company has gained experience with market conditions for this type of service in the area, and a greater familiarity with the use area. The operator proposes adjustments to the operating plan to better meet public demand for the tours, and to more efficiently employ the tour guides. The operator also runs ATV tours on National Forest land in the Santa Rita Mountains under a permit issued by the Coronado National Forest, and in the Sedona area.

The Need for The Proposal: Lutz Adventure Tours has submitted an application for renewal and amendment of the Special Recreation Permit (SRP # AZA-32178) for use of BLM lands in the Tucson Field Office in connection with the guided ATV tours. The application is made pursuant regulations at 43CFR2930.

Conformance with Land Use Plan: Public lands in the area are subject to the Phoenix Resource Management Plan (RMP) completed in 1989, which limits motorized travel pursuant designations established under 43CFR8340 to 'existing roads and trails'. All of the proposed tour routes are considered to be in conformance with the RMP.

Issuance of SRPs was not specifically addressed in the RMP. However, SRPs are issued on a case-by-case basis in accordance with regulations at 43CFR2930 and related policies and procedures, which is provided for in the RMP (see page 14, Land Use Authorizations, and page 17, Environmental Management).

Relationship to Statutes, Regulations or Other Plans or Policies: Executive Order 13112 of requires the BLM to prevent the introduction of invasive species, and to not authorize actions likely to cause or promote the introduction or spread of invasive species. A special stipulation to prevent introduction or spread of weed seed was attached to the original permit.

Executive Order 13212 provides that all decisions made by the BLM will take into consideration adverse impacts on the President's National Energy Policy. The proposed action will not have a direct or indirect

adverse impact on energy development, production, supply and/or distribution, and therefore a "Statement of Adverse Energy Impact" does not need to be prepared.

Arizona State law requires ATVs used on public roads and streets to be licensed and insured. The ATVs used in the proposed operation are licensed and insured for public road/street use. State law requires helmets for ATV operators under 18 years old. A special permit stipulation attached to the original permit requires all tour participants to wear a helmet regardless of age while on public lands. Under state regulations, it is illegal for two persons to ride on an ATV unless it is designed to carry more than one person (ARS 28-892). The operator uses after market bench seats with hand grips and foot rests that bolt onto the rear cargo rack and frame of the ATV to accommodate a passenger for some of the tours depending on clients' needs.

Use of routes across State Trust land or private land that are not public roads is subject to the State Land Department's or private landowners' permission.

II. THE PROPOSED ACTION AND ALTERNATIVES

Description of the Proposed Action: Authorize the Special Recreation Permit (SRP) for use of public lands administered by the Bureau of Land Management in connection with the proposed guided ATV tours for a term of three years, with annual validation of permit requirements, and satisfactory compliance with permit terms, conditions and stipulations. The tour operation is described in the Operating Plan submitted with the application for renewal and summarized below.

The tours will take place during daylight hours. No overnight use or camping is proposed.

The tours use existing roads and trails, as shown on Map 1, and will stay on the existing travelway at all times. Any stops or parking will be on existing disturbed areas and turnouts free of vegetation growth.

The tours are planned to be 3 to 4 hours long, with approximately 3 hours spent on the trail. Tours would be made available 7 days a week, year round, during daylight hours and would occur depending on demand. Based on the operator's experience in the first two years of operation, demand for tours exists year-round because of winter, holiday and summer vacations although the type of client varies depending on the time of year. In this use area, demand is influenced by climate and is relatively low during the hot days of June through September. The normal operating season is October 1 to May 31 (243 days, or 34 weeks), with the majority of use expected during the fall and spring.

The applicant has 6 ATVs and can provide a tour for up to 5 client driven ATVs, plus the guide. The tours would normally have a maximum 1:5 guide to client/ATV ratio. In the future, the operator may acquire additional equipment, and if so, would be able to accommodate groups of up to 10 client driven ATVs, plus the guides. Regardless of group size, the guide to client ratio would be no more than 1:5

Clients may ride double (two persons on the ATV) only if the vehicle is designed or equipped to carry more than one person.

The expected tour participants will include first time ATV riders, as well as riders with some experience riding. Riders include a variety of age groups, including children and elderly. The tours will be tailored to the riders' skill and ability. Riders will be evaluated during the pre-trip safety and orientation check.

Up to three tours a day are proposed. Generally, one trip will be taken in the morning and the second in the afternoon, with a third trip possible during days with longer daylight hours.

The maximum potential use at full operating capacity is 21 tours per week, representing up to 126 visits weekly. The maximum potential use during the normal 34 week operating season at full operating capacity is 714 tours, representing 4,284 visits. The maximum potential use in a year at full operating capacity is 1,092 tours representing 6,552 visits. However, the maximum potential use level is not likely

to be achieved because of demand, seasonal factors, and operational limitations. The estimated annual use is projected to be approximately 3500 visits, with approximately 54% of operating capacity, or 590 trips representing 3,500 visits.

Normally, the tours will enter and leave the use area via Price Road and Box Canyon Road, or Sandman Road, depending on the group type and time of day. The tours originate and end on private land near the SR79 and Price Road intersection.

No facilities on public land are required to conduct the tours. The tours will utilize existing informal parking areas for trails activities (scenic overlooks, points of interests, etc). The existing gravel pit on public land along Price Road (T4S R10E Sec. 19 SW1/4 NE1/4) will be used in the pre-trip orientation, rider evaluation, safety briefing, ATV training and hands-on practice provided no conflict arises with the mineral materials extraction/stockpiling operation. An alternate site will be used for pre-trip activities at the old gravel pit at T4S R10E Sec. 19 NE1/4NE1/4). No new construction, vegetation clearing or ground disturbance is proposed or required. Because of the short duration of the tours, no toilets are needed along the tour route. Back country human waste disposal methods will be used if it becomes necessary, following recommended 'Leave No Trace' practices.

Any litter generated (snacks, drinks, lunch) on the tours will be packed out.

Specialized Training: The tour guides will be qualified ATV riding instructors, certified by the ATV National Safety Institute. The guide will orient and train tour participants on the safe and responsible operation of ATVs on each trip, and ensure compliance with applicable permit requirements.

Emergency Plan and Preparedness: The trip guides will have first aid and CPR training, and will carry a field First Aid kit, a cell phone or radio for emergency communications. Locations with cell phone coverage and potential air lift evacuation sites will be identified in advance for use in the event of an emergency in connection with the operations.

Riding Helmets: All persons operating or riding an ATV will wear a helmet while operating the ATV on a tour.

Educational Materials: The operator will develop cooperatively with the BLM educational themes to incorporate in the tour's trip talk. The themes will be aimed at promoting awareness and sensitivity for Sonoran desert resource values, wildlife habitat, historic/cultural resources, and resource protection.

Cactus Ferruginous Pygmy Owl (CFPO) Protection: CFPO surveys will be conducted in the proposed use area by the Bureau according to the current USFWS approved survey protocol. If the pygmy owl is detected, the permitted operations will be immediately discontinued within ¼ mile of where the owl was found, and the US Fish and Wildlife Service will be consulted to determine appropriate management action. Additionally, the permitted operations will be subject to the applicable CFPO conservation measures described in Attachment C. The conservation measures are based on recommendations from the USFWS.

Weeds Prevention: The operator will maintain vehicles washed and clean, and free of soil clumps and any plant parts which may contain weed seed to prevent the spreading of weed seeds from outside the area or within the area.

Use of BLM lands will be subject to all the applicable SRP terms, conditions and stipulations in Attachment B, Special Recreation Permit Terms, Conditions and Stipulations.

Description of the No Action Alternative: The SRP application would not be approved. Use of BLM lands in connection with Lutz Adventure Tours ATV operations would not be authorized.

III. AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

Land Status: General land ownership in the area is intermingled, with State Trust Land, BLM land, military land, and private property found along the tour routes (see Map 1). The private land is mostly found along the Price Road, which also crosses some military land transferred from public domain to the Arizona National Guard in 1913 (Executive Order 1633). Price Road is a county road across private lands along the route, according to a public road declaration of the Pinal County Board of Supervisors on September 4, 1918. No right of way exists for Price Road across the BLM land. The route to Martinez Canyon crosses a short stretch of private land commonly in use by the public.

Impacts of the Proposed Action: The tour routes cross approximately 2 miles of State Land along Price Road and Sandman Road. Use of non-BLM land across a non-public road requires the landowners' permission, or it may constitute trespass.

Impacts of the No Action Alternative: None.

OHV Designations and Use: The current OHV designation in the proposed use area is "Limited to Existing Roads and Trails". The roads involved are shown on USGS 7.5' topographic maps published in 1964 and existed at the time the current designations were established for public lands in the area in the Phoenix RMP.

Impacts of the Proposed Action: No change to existing OHV designations.

Impact of the No Action Alternative: None.

Transportation System: General access to the use area from SR79 is via Cottonwood Canyon road and Price Road along the Gila River, and from SR60 via Mineral Mountain Rd. Pinal County maintains Price Road up to the mouth of Box Canyon. Price Road is generally useable by passenger vehicle and truck. The proposed tour routes are part of an extensive system of existing roads and trails in the proposed use area. No BLM road maintenance is provided on the existing road system. None of the local routes on BLM land have to date been inventoried in BLM's Facility Inventory Maintenance Management System (FIMMS), and there is no official BLM transportation plan for the area. Route conditions vary, but most of the roads on BLM land are in deteriorated condition from drainage problems and lack of maintenance. Washouts and erosion limit the type of vehicle that can use the roadways, but they are generally suitable for ATV use. The proposed tour routes are used by mixed traffic mainly consisting of 4WD vehicles, ATVs, and motorcycles. Most of the tour routes are single lane or one and a half lanes, with occasional sight distance problems and blind curves. Generally, traffic volumes vary depending on the time of year, with higher volumes during the cool weather months in fall, winter and spring. Based on traffic count gathered by the BLM from January 2003 to December 2004, the annual average daily traffic on Box Canyon Rd. is 19 vehicles. The annual average daily traffic on Sandman Road in the same period is 9.8 vehicles. These traffic counts include traffic related to the tours in 2003-04. No traffic counts are available for Price Road.

Impacts of the Proposed Action: The tours will generate traffic from the ATVs traveling on the tour routes, affecting the traffic volume on Price Road, Box Canyon road and Sandman Road. At full operating capacity, the tours could generate up to 36 vehicles per day entering and leaving the use area, normally distributed about equally between Box Canyon Road and Sandman Road. At the estimated annual use of 3,500 visits spread over the normal 34 week (143 day) operating season, the tour operation could generate traffic of approximately 14 to 15 vehicles per day entering and leaving the area, normally distributed equally between Box Canyon and Sandman Road, or approximately 7 vehicles per day entering and leaving on each road. Existing traffic volume on Box Canyon Road could increase by about 37% and the average daily traffic could increase by 71% on Sandman Road. Traffic impact on the tour routes may become noticeable, but constitute a relatively small portion of the total use in the area. The tours will encounter mixed traffic on the tour routes. There is a possibility the tours will encounter on-coming traffic on a narrow stretch of road or on a blind curve, posing a risk of accident.

Impacts of the No Action Alternative: None.

Threatened and Endangered Species: The proposed use area is not within the critical habitat for the cactus ferruginous pygmy-owl (CFPO) (*Glaucidium brasilianum cactorum*) proposed by the USFWS in December 2002. Portions of the tour routes are within the USFWS proposed CFPO recovery area. CFPO habitat evaluations conducted by the BLM in the area identified suitable CFPO habitat along portions of Box Canyon and Martinez Canyon. CFPO surveys conducted according to current protocol in 2000, 2001, 2002 and 2005 were negative. There is no southwestern willow flycatcher (*Empidonax traillii extimus*) habitat along the tour routes, and the nearest potential habitat is found along the Gila River approximately 20 miles east of the proposed use area. The area is potential habitat for the Lesser long nosed bat (*Leptonycteris curasoae yerbabuena*), and this species is found within the TFO but the nearest known roost is located about 50 miles away on Tohono O'Odham Nation lands.

Impacts of the Proposed Action: The tours will utilize existing roads and will not result in new destruction of existing vegetation that provides habitat for the CFPO, which could potentially occur in the use area. The tours will cause a temporary disturbance in potential CFPO habitat from the presence of the passing tours, but the additional disturbance would be minor. Because the tours may occur year-round, potential disturbance from the passage of the tour groups will occur during the CFPO breeding season (February 1 – July 31). The CFPO conservation measures in Attachment C will mitigate potential impacts should a CFPO be found. Informal consultation with the US Fish and Wildlife Service when the tours were initially authorized resulted in a determination that the Proposed Action 'may affect, not likely to adversely affect' the CFPO. The USFWS Tucson Sub-Office concurred that issuance of the permit will not adversely affect the pygmy-owl, nor adversely modify its critical habitat. The determination was based on: a) 3 CFPO surveys will be completed prior to initiating the tours, b) annual surveys will be conducted in suitable habitat in areas of ongoing tours, which have been completed including a round of surveys in the spring of 2005. c) all associated activities will be limited to existing roads or approved routes d) if a pygmy owl is detected during the surveys, any events in that area will be suspended or postponed until USFWS and BLM confer regarding the status of the owl and potential effects, and e) all other pygmy-owl conservation measures described in the EA are implemented. Pygmy-owl surveys were conducted in the affected area on February 20, February 23, February 28, and March 7, 2003 and no pygmy-owls were found. Surveys were completed in March and April 2005, and no pygmy-owls were found. No impact is expected on southwestern willow flycatcher. No impact is expected on the Lesser long nosed bat.

Impacts of the No Action Alternative: No impacts.

Wildlife Habitat: The area provides habitat for a variety of wildlife species, and several wildlife water sources (seeps and springs) are found along the tour routes. Water sources in the area are scarce and very important for a variety of species including desert mule deer, javelina, bobcat, mountain lion, coyote, gray fox, bats, quail, and non-game birds. The route to the Martinez Cabin crosses a section with high quality riparian habitat (cottonwood, ash, hackberry and willow) supported by spring fed perennial surface water. A Proper Functioning Condition (PFC) assessment was conducted on this riparian area in 2001, which indicated it is 'functioning at risk'. Aquatic habitat is found in Martinez Canyon in this riparian area, and a native fish (Longfin dace- *Agosia chrysogaster*) was introduced in several pools below the stream crossing. Portions of other routes follow major drainage courses with poor quality or degraded riparian values.

The use area is in Class 2 sonoran desert tortoise (*Gopherus agassizi*) habitat. The habitat is of relatively high quality. Though the population is depressed at this time and tortoises are rarely seen, the population could rebound in the future. The tortoise is not normally active during the winter months (November through February), but could be encountered on warm days in the fall.

Impacts of the Proposed Action: Continued recreational use along routes past water sources will temporarily displace wildlife present and impose additional stress. Because of the harsh desert environment, even temporary displacement may be detrimental. Habitat values will be temporarily affected during the tours, which may contribute to long term habitat degradation throughout the year along the roads. The tour traffic will add to ongoing traffic in Martinez Canyon, contributing the disturbance of riparian habitat values present there. The tours will pass near aquatic habitat where introduced native fish are present. Impact on wildlife and wildlife habitat is not expected to be significant.

Impacts of the No Action Alternative: No impacts.

Cultural Resources: Archaeological and historic resources exist along some of the proposed tour routes, including petroglyph and occupancy sites. A cultural resource management site (Raymert/DeNoon Site) and the Middle Gila Cultural Resource Management Area are found in the general area. Cultural surveys have not been conducted for the proposed tour routes and were not deemed necessary because the proposed use would not cause additional new disturbance.

Impacts of the Proposed Action: The proposed tours may visit two noteworthy historic sites, the Raymert/DeNoon historic townsite, and the Martinez Cabins. The tours will provide opportunities for interpretation of the local area's history, and cultural resource conservation. Trip guides will prevent participants from taking items or artifacts from historic sites, or from doing anything that might cause damage to the structures or other features at the sites. No significant impact is expected to cultural resources.

Impacts of the No Action Alternative: No impacts.

Recreation: The proposed use area is in an extensive recreation management area that provides opportunities for a variety of dispersed recreation activities. Popular activities include hunting, four-wheel driving, extreme 4WD rock crawling, ATV riding, dirt bike riding, horseback riding, camping and picnicking, casual use mining/gold panning, and sightseeing among others. Recreation use is increasing, and the estimated annual use for the White Canyon Resource Conservation Area based on preliminary data gathered in 2003-2004 is 53,000 visits. Visitors are predominantly from the Phoenix metro and local area communities, with a substantial number of seasonal residents ('snowbirds'). A substantial number of visitors are repeat users. Because of physical travel route conditions, access to the backcountry generally requires a high clearance or four-wheel drive vehicle, although the Price road up to the mouth of Box Canyon is generally accessible to passenger cars and trailer pulling vehicles. There are no specific management objectives for the area in the current RMP, but the recreation opportunities and settings in the proposed use area are characteristic of a Semi-Primitive Motorized class according the Recreation Opportunity Spectrum system.

Impacts of the Proposed Action: The proposed operation will provide opportunities for guided and supervised ATV riding tours for a variety of skill and experience levels. The operation is projected to add approximately 3,500 visitor days annually to recreation use in the area. The operation will add up to three tour groups per day to the prevailing recreation use in the area. Although the tour opportunities may be offered year round, actual use is anticipated to occur during a 34 week operating season September to May. The peak use season is expected to occur during the traditional spring break, and fall-winter holiday seasons. Based on the operator's experience, demand for tours and corresponding use during the summer is expected to be low because of climatic and market reasons. Other area users may encounter the tours but congestion is not likely to result. Nevertheless, the tours could detract from the experience of others. The tours will increase public exposure to the area, and potentially attract new users who may return on their own and contribute to increasing recreation use trends in the area. The tour use will contribute to the overall recreation use in the area and will account for approximately 6% of the total use.

Impacts of the No Action Alternative: Guided ATV tours will not be provided in the area.

Visual Resources: The proposed use area is scenic, with outstanding landform, vegetation and cultural features, and provides outstanding sightseeing opportunities. It is characterized by a canyon and mountain landscape in the upper sonoran desert. Landscape modifications include roads, mine excavations and structures, and livestock grazing improvements (windmills, fences, stock ponds). The area is popular with sightseers, and visitors may be encountered throughout the year.

Impacts of the Proposed Action: The operation will have a temporary, ephemeral visual impact when the tour groups are encountered by others. The encounters will be similar to other groups encountered in the area.

Impacts of the No Action Alternative: No impacts.

Abandoned Mine Hazards: Abandoned mines, mine prospect holes, shafts and mine related structures are found in the proposed use area. The mining related features are part of the area's history and attract the attention of visitors, and because of their accessibility, some of them present hazards to users.

Impacts of the Proposed Action: The tours will pass by some of the abandoned mine/mining activity sites, potentially exposing tour participants to related hazards. The tour guides will supervise tour participants and not allow entry to potential mine hazards.

Impacts of the No Action Alternative: No direct impacts.

Socio-Economics: The proposed use area is in a region with mining, ranching, agriculture, prison industry, and tourism based economy. A regional tourism marketing study prepared in early 2002 by the Central Arizona Association of Governments (CAAG) identified four-wheeling and backcountry recreation in the general area as opportunities for economic development.

Impacts of the Proposed Action: Revenue will be generated by the tour operator from the sightseeing opportunities in the area. One or more guides will be employed to conduct the tours. Permit fees will be generated for use of BLM lands. The operation will add to the increasing recreational use in the area, potentially contributing to social conflicts among the various users.

Impacts of the No Action Alternative: Revenue would not be generated by the tour company from ATV operations in the proposed use area.

Grazing: The proposed use area is in the BLM Horsetrack, Myers and Len grazing allotments. The tour routes cross several gates and cattleguards, and pass by several livestock water developments. Cattle grazing is permitted in the allotments with a yearlong grazing season. Actual grazing use generally occurs seasonally during winter-spring depending on range conditions.

Impacts of the Proposed Action: No direct impacts to grazing operations are expected from the tours. Potential conflicts could occur around livestock watering, salting and loafing areas along the travel ways. Cattle may be inadvertently driven along the road, and visitors will see up close localized areas where cattle grazing impacts are evident. Any gates will be left as they are found.

Impacts of the No Action Alternative: None.

Hazardous Materials: There are no known hazardous materials sites on BLM lands along the proposed tour routes.

Impacts of the Proposed Action: The tours will not be exposed to known hazardous materials. The tour operation will not generate hazardous materials, but there could some vehicle fluids

(engine oil, gasoline, cooling system, brake system, gearbox oil) spilled in case of an accident. The likelihood of an accident involving spills is considered to be slight due to the nature of the tours and the riding areas, and proper vehicle maintenance. Clean up of any fluid spills will be required by permit stipulation.

Impacts of No Action Alternative: None.

Soils: Soils along the routes are fine grained-silty to sandy along the Gila River valley, becoming stony, gravelly to rocky in the mountains and canyons (See the Natural Resource Conservation Service soil surveys for Pinal county for detailed soil descriptions). Bedrock is near the surface on upper slopes and ridges, rock outcrops and stones are frequent along the canyon and mountain tour routes. Along the wash bottom routes, soils are gravelly and stony, with rock outcrops. Most of the tour route roadways have sections with poor drainage, and soils have eroded to bedrock in places.

Impacts of the Proposed Action: The tour related activities will take place on existing disturbed areas/soils along existing roads and no new soil disturbance is expected. Some dust will be generated by the passage of the vehicles used in the operation when soil conditions are prone to dust (dry, pulverized surface) on the routes across fine-grained soil types. The proposed tours will not contribute noticeably to erosion problems.

Impacts of the No Action Alternative: No direct impacts.

Vegetation: The proposed use area is in the Upper and Middle Sonoran Desert Shrub (40-1AZ and 40-2AZ) vegetation units, within the Sonoran Basin and Range, volcanic hills, ranging in elevation from 1,500 to 3,000 ft. Plant communities are a mixture of desert trees, shrubs and cacti with understories of perennial grasses and forbs. Saguaro, hedgehog, cholla, mesquite, palo verde, ironwood, cholla, creosote, snakeweed, and bursage are common along the travel routes. (See the NRCS rangeland site descriptions for detailed physiographic, soils association, climatic and native vegetation descriptions.)

Impacts from Proposed Action: The tours will use existing roads and trails where vegetation production has been foregone to travelway use. There will be no new vegetation clearing or disturbance caused by the proposed tours.

Impacts of the No Action Alternative: No direct impacts.

Environmental Justice: The tours will occur in an unpopulated area of Pinal County within 50 miles of the Phoenix metropolitan area. The nearest rural community is Florence, where low income and minority populations exist.

Impacts of the Proposed Action: No disproportionate impacts to low income or minority populations are expected.

Impacts of the No Action Alternative: No disproportionate impacts to low income or minority populations are expected.

Noxious Weeds: Scattered Russian thistle, Bermuda grass, and tamarisk are exotic plants found in the general area. No noxious weed infestations have been identified, but no weed population survey has been conducted.

Impacts of the Proposed Action: The ATV tours could introduce weed seeds from outside the area, and/or spread weed seed from within the area. The operator will maintain the vehicles used in the operation clean and free of mud, dirt and any plant parts to minimize the possibility of bringing weed seed into the area. The vehicles will be driven on existing travelways free of vegetation cover, and the likelihood of translocating weed seed within the area will be minimal.

Impacts of the No Action Alternative: No impact.

Air Quality: Pinal County is presently considering an ordinance to regulate off-road vehicle operation for the purpose of protecting air quality (*Pinal County Off-Road Vehicle Ordinance*). The ordinance is aimed at preventing elevated levels of particulate matter that constitute a risk to public health, dust that interferes with visibility on highways and thereby constitute a risk to public safety, and air pollution which can interfere with the peaceable use and enjoyment of nearby property owners, and may thereby constitute a nuisance. If enacted, the ordinance would set a speed limit of 5 miles per hour within ¼ mile of a highway or structure. Some of the soil types in the use area are fine grained and prone to dust when disturbed by vehicle traffic. However, the soil types along the travel routes are composed of relatively coarse grained particles (sand, gravel, stone/rock) and not highly prone to dust. Dust prone conditions are likely to be encountered on some sections of Price Road. There are several private residence structures along Price Road.

Impacts of the Proposed Action: Most of the tour routes are natural soil surface travelways, except for the section of Price Road from SR79 to the Parmer Ranch, which receives maintenance and dust control treatment by Pinal County. Traffic related to the ATV tour operation will generate dust along the tour routes, particularly on sections of Price Road due to the fine grained soils present. Unacceptable dust problems will be prevented by the permit stipulation requiring the tour operation to comply with Pinal County ordinances. Dust problems are not likely to occur in the rest of the use area because the soils are coarser grained, gravelly to stony on those routes

Impacts of the No Action Alternative: None.

Noise: The acoustical setting in the proposed use area is typical of sparsely populated agricultural and rural residential areas, and undeveloped remote back country lands, with ample opportunities for quiet. Existing noise generators include motor vehicles on the area's roads, and the various activities related to the various land uses. The proposed use area is near the Florence Military Reservation, which generates explosion noise related the guns and cannons used in periodic training exercises by the Arizona National Guard.

Impacts of the Proposed Action: The vehicles used in the operations will result in noise emissions along the tour routes, including in the vicinity of several existing residences along Price Road. However, noise emissions will be minimal because the vehicles will be equipped with mufflers, and driving speeds will be kept low.

Impacts of the No Action Alternative: None.

Fire Risk: The area generally contains a variety of vegetation typical of the upper Sonoran desert environment, which provides natural fuels that may carry a wildfire especially on years of winter precipitation when annual forbs and grasses become abundant. No wildfires have been reported in the use area during the past 15 years. The area is subject to periodic fire restrictions as warranted by fire danger.

Impacts of the Proposed Action: Internal combustion engines in motor vehicles such as ATVs operate at high temperatures, and some engine components could scorch and cause dry vegetation fuels to smolder and ignite. Engines also can emit sparks that can ignite a wildfire. No increased fire risk is anticipated because the tour vehicles will only be operated on roadways and parking turnouts/activity areas free of vegetation, and the likelihood of natural fuels coming in contact with hot engine components is considered to be low. Additionally, the engines are equipped with the manufacturers' muffler exhaust system, and the likelihood of sparks being emitted is considered remote. Furthermore, the operation would be subject to fire restriction orders which may be issued placing special restrictions on use and/or operation of vehicles in the area when warranted by fire danger.

Impacts of the No Action Alternative: None.

ATTACHMENT A

SRP # AZA-32178
Operating Plan

(See case file)

ATTACHMENT B
Bureau of Land Management
Tucson Field Office
SPECIAL RECREATION PERMIT
TERMS, CONDITIONS AND STIPULATIONS
PERMIT # _____

2930
(Rev. 06/03)

I. RISKS, HAZARDS AND SAFETY

A. Hazards related to climate, topography and terrain, waters, vegetation and wildlife, and man-made features are found on public lands and present risks which the permittee assumes. The permittee shall be responsible for inspecting sites, trails, roads, rivers and other authorized use areas for dangers and hazardous conditions, ensuring awareness by employees and clients of such risks and hazards, and promoting safe practices at all times.

B. Adequate first aid and safety equipment shall be provided while performing the permitted activities.

C. All guides and employees responsible for clients in the field shall be trained in First Aid/cardiopulmonary resuscitation (CPR), and hold a valid certification of training from the American Red Cross or its equivalent. Proof of first aid training shall be submitted to the Bureau of Land Management (BLM) for all field guides and employees.

D. In case of human death, or wildfire, involving the permitted operation, the County Sheriff shall be notified immediately, and the BLM shall be notified immediately after the Sheriff is notified.

E. The permittee shall notify the authorized officer of any accident which occurs while involved in activities authorized by this permit which result in: death, personal injury requiring hospitalization or emergency evacuation, or in property damage greater than \$2,500 (lesser amounts if established by State law). Reports should be submitted within 48 hours in the case of death or injury, or 10 days in accidents involving property damage.

II. INDEMNIFICATION

A. The permittee shall indemnify, defend, and hold harmless the United States and/or its agencies and representatives from any and all demands, claims, or liabilities of every nature whatsoever, including, but not limited to, damages to property, injuries to or death of persons, arising directly or indirectly from, or in any way connected with the authorized use and occupancy of the lands authorized for use under this permit.

B. Insurance and Liability: A property damage, personal injury, and comprehensive public liability insurance policy is required for all commercial and competitive permittees. The policy will provide restitution for damage or injury to participants, spectators or both, or to privately owned resources, and protect the United States from litigation resulting from actions taken or caused by the permittee or participants in the permitted use.

At a minimum the permittee shall have in force public liability insurance covering:

- (1) \$30,000 damage to property,
- (2) \$300,000 damage per occurrence (persons, bodily injury or death),
- (3) \$600,000 annual aggregate.

C. Additional insurance coverage may be required if the authorized officer determines that the activity or event presents a high risk or for other compelling reason.

D. A certificate of insurance shall be submitted prior to initiating permitted operations, stating the limits of coverage, identifying the "United States Government" as additional insured, and that the insurer will give BLM thirty (30) days written notice prior to cancellation or modification of the insurance policy.

D. Insurance may be required for vending or organized group activities and events, depending on the activity and risk to the Government.

F. Bonds: The authorized officer may require the posting of securities for bonds or guarantees in such form and in such amount as the authorized officer determines to be sufficient to defray the costs of restoration, reclamation, or rehabilitation of the lands affected by the permitted use.

III. APPLICABLE LAWS AND REGULATIONS

A. This Permit is subject to regulations contained in 43 CFR 2930, and all applicable provisions of the regulations (43 CFR Group 8300) which are made a part hereof.

B. The permittee shall observe all applicable Federal, State, and local laws and regulations while performing any authorized activity, including but not limited to: (1) operation, use and registration of motor vehicles, OHV's, aircraft, and boats; (2) hunting and fishing; (3) use of firearms; (4) injury to persons or destruction of property; (5) noise, air and water pollution; (6) littering; (7) drinking water and sanitation; (8) food service; (9) use of fire; and (10) business practices.

C. All hunting activities shall comply with the Arizona Game and Fish hunter safety requirements.

D. Permittee shall comply with Off-Highway Vehicle (OHV) use designations and restrictions in the area of operation as identified in the Resource Management Plan and prescribed in 43 CFR 8340.

E. The permittee shall notify the BLM of any conviction for any violation of Federal, State and local laws and regulations committed by himself, employees, clients and guests in connection with the authorized operations. Notification shall be in writing, describing the nature of the violation, and submitted within 30 days of such conviction.

F. Permittee shall comply with all administrative procedures and requirements for permit application and/or renewal in a timely manner, and shall maintain current all permit requirements including but not limited to the operating authorization, operating plan, State permit or license, insurance, and first aid training certifications

IV. LIMITATIONS

A. This permit authorizes only temporary use in connection with the operations, during the period(s), and in the area(s) identified in the Operating Authorization and approved operating plan.

B. Reassignment or Transfer: This permit may not be reassigned or transferred by the permittee for any reason whatsoever.

C. Use of Non-Public lands: This permit does not authorize use of non-BLM land (i.e. private, city, county, state, or other federal land) unless specifically provided for through a joint use permit.

D. The applicant shall provide upon request the name(s) and address(es) of private landowners whose property is used in connection with the permitted operations, and evidence of permission to use such land.

E. Access to Public Lands: The BLM does not guarantee legal access to public lands unless legal access for the general public is available. Where legal public access is not available, the permittee is responsible for obtaining permission from the landowner(s) to travel through or use private lands.

F. Multi-Year Permits: A multi-year permit is not valid unless accompanied by a current Annual Operating Authorization.

G. Joint Permit Requirement: This permit authorizes use of public lands only in the BLM Tucson Field Office; use of public lands in another BLM Field Office must be approved under a separate or joint use permit.

H. Clean Up: Post use clean up, and removal of any temporary facilities or signs, must be completed within 24 hours after the permitted use or activity, unless otherwise authorized.

V. NON-EXCLUSIVE USE

A. The permittee, employees and clients shall not interfere with other valid uses of public land, including but not limited to grazing, mining, and other recreational uses by the general public or other permitted commercial operations.

B. Roads, trails and trailheads, river access or campsites commonly in public use shall not be blocked or enclosed by the permittee.

C. This SRP does not guarantee the permittee's sole use of public land areas, nor does it grant the exclusive use of any area.

D. Public lands will generally remain available on a first-come, first served basis to other commercial and private recreational users. Nothing herein implies that the first permittee in any area has been granted exclusive use, or priority use.

E. The authorized officer may authorize temporary exclusive use of a site if required to protect public health or safety, or to eliminate user and resource conflicts.

VI. CONDUCT AND MANNERS

A. The permittee is at all times responsible for the actions of himself, employees, clients and guests in connection with the authorized operations, and shall ensure compliance with the permit stipulations as applicable and not cause a public disturbance or engage in activities which create a hazard or nuisance.

B. All field guides and employees must be familiar with the Permit terms, conditions and stipulations.

VII. MODIFICATION OR AMENDMENT

A. The BLM reserves the right to alter the terms, conditions, and stipulations of this permit at any time upon notice for reasons such as changes in law, policy or administrative procedure, to prevent use conflicts, to protect public safety, or to prevent resource damage.

B. The permittee shall request amendment or modification of the permit to provide for changes in use areas or sites, season of use, services provided, or any substantive changes in the operating plan.

C. The BLM may restrict use or close sites or areas on public land, or require relocation of use sites or areas to prevent use conflicts, protect public safety, or prevent resource damage.

VIII. PAYMENTS

A. Use Fee Payments: Permit fees are due and payable in advance annually based on estimated use gross receipts. Payments shall be sent to the Tucson Field Office and may be made by credit card, check, money order or cashier's check made payable to "The Bureau of Land Management".

B. Basis for Fee:

1. Commercial Use Fee: The annual permit fee is three percent (3%) of the adjusted gross revenue derived from use authorized under the SRP, or \$90.00 annual minimum whichever is greater. Gross receipts shall be the sum of all payments made by clients for services rendered in connection with the permitted operations, before disbursement to others for use of non-public land, payment to employees, and any other disbursement.

2. Competitive Use Fee: The permit fee for competitive use is \$4.00 per participant per day, three percent (3%) of adjusted gross receipts, or \$90.00 annual or per occurrence minimum whichever is greatest.

3. Organized Groups/Events Fees: The permit fee for organized groups/events is \$4.00/person/day, or \$90.00 annual/per occurrence minimum, whichever is greatest.

C. Periodic Payments: Periodic payments may be allowed as long as 25% of the estimated fee or the minimum \$80.00, whichever is greatest, is paid up front.

D. End of Season Payment: The actual use fee shall be determined from the use reports. If the actual use fee is greater than the advance payment(s) the end of season payment shall be due within 30 days of the use season.

E. Refunds:

1. Application and/or minimum annual commercial fees are not refundable.

2. In the event a SRP is not approved after advance payment is made during the application process, all payments except the application and/or minimum annual fee shall be refunded without interest.

3. Fees may be refunded less the direct cost of processing the permit if the event or activity is cancelled by the permittee after the permit is issued.

4. For multiyear permits, advance payments in excess of annual/seasonal actual use fees shall be applied towards the following year's permit payments unless a refund is requested in writing by the permittee. No refunds of less than annual minimum \$90.00 will be made.

5. Refunds shall be granted for overpayment of commercial fees for single year or one time permits.

F. Late Payments: Late payment of fees may result in permit probation, suspension, and/or revocation, and interest and administrative handling charges.

G. Deductions: Allowable deductions in permit fees shall be agreed upon in advance, and may include costs incurred by the permittee for long distance off-site transportation, off-site lodging, and use of non-public lands, per Handbook H-2930-1.

IX. USE REPORTS

A. Trip Logs: Trip Logs shall be submitted within 30 days of the last day of use authorized on a form provided by the BLM or an approved equivalent. Trip logs shall indicate accurately the dates of use,

location, type of use, number of clients, number of staff, equipment, vehicles and livestock used, total receipts, and any deductions claimed.

B. Post Use Report: A Post Use Report shall be submitted within 30 days of the last day of use authorized, on a form provided by the BLM or an approved equivalent. The post use report shall indicate accurately the total number of clients served during the term of the permit, total number of staff and total use, total receipts, and total deductions claimed; describe any accidents or injuries occurred, and any management problems or concerns.

C. Late Use Reports: Late submission of use reports may be cause for action against the permittee, including probation, suspension, and/or revocation, or law enforcement penalties.

D. Non-Use: A permit may be canceled after two consecutive seasons of non-use.

X. INSPECTION OF RECORDS AND PREMISES

A. The BLM, or duly authorized representative, may examine upon request any of the records, including but not limited to bookings, client registers, financial records, leases or contractual agreements, licenses, or other documents related to the permitted operations.

B. The BLM and its cooperators shall at all times have the right to enter the premises located on public land on official business. The permittee shall allow reasonable access to private lands owned or utilized in the permitted operation for purposes related to administration of the permit.

C. The permittee shall post a copy of the permit or Operating Authorization in plain view at the base of operations and camps, where clients, BLM and law enforcement officers have the opportunity to read it.

D. All guides and employees must carry a copy of the permit or Operating Authorization while conducting operations on public lands.

XI. SIGNING AND ADVERTISING

A. Signs or advertising devices on public land require advance approval on the location, design, size, shape or color, and message.

B. All advertising shall be accurate and not misrepresent in any way the services or accommodations provided, or the area authorized for use. Brochures and other advertising materials may include the following or a similar disclosure: "Use of Public Lands Under Permit by the Bureau of Land Management".

XII. CAMPSITES

A. Camps may not be set up for any longer than necessary and no earlier than the day of the trip's arrival, and must be removed on the day of the trip's departure, unless specifically authorized otherwise. No year-round, permanent camps may be established on BLM lands; only temporary facilities are permitted.

B. Camps shall be located to avoid conflict with public road and trail traffic, and stream, river or lake access, and to the extent possible shall be located out of sight of major trails.

C. All campsites and temporary improvements shall be as described in the approved operating plan.

D. Camps shall be at least 200 ft. from any water source, and at least ¼ mile from wildlife water developments.

XIII. CAMP FIRES

A. Open fires may be prohibited during periods of extremely high fire hazard by order of the BLM or the State of Arizona.

B. Unless designated permanent fireplaces are available, open campfires shall be built only in areas free of hazardous fuels. Fire rings or pits shall be set on bare mineral soil. After use, fire rings or pits shall be obliterated and the site rehabilitated.

C. Campfires shall be completely extinguished when left unattended. The permittee is responsible for all fires started by him/her self, employees, or clients, and may be held responsible for fire suppression costs resulting from wildfire caused by his/her operations.

D. An axe, shovel, water bucket or extinguisher for fire control shall be available at each campfire.

E. Wildfire caused by the permitted operation shall be reported immediately to the nearest BLM office. The permittee is responsible for informing employees, clients, and participants of the current fire danger and required restrictions or precautions that may be in effect.

XIV. LIVESTOCK USE

A. Authorized pasture use of livestock is temporary and limited to transportation purposes, and will not establish a priority for future use of the range. Rangeland grazing may be restricted and feed may be required to be packed in. The permittee shall prevent localized over grazing and damage to vegetation by permitted transportation livestock.

B. Construction of permanent fences or corrals is not permitted. Temporary livestock control structures may be erected, including corrals and hitching racks, provided they are dismantled after the use season.

C. The permittee may be required to pay additional fees for rangeland forage consumed by livestock during the permitted operations.

D. Livestock shall not be tied to trees for other than short term, temporary stops. Hobbles, pickets, high-lines or corrals shall be used to control livestock.

E. Livestock control structures (corrals, hitching racks, pickets, high-lines) must be at least 200 ft. from springs, streams, lakes, reservoirs or other water sources, and at least ¼ mile from wildlife water developments.

F. Use of processed feed may be required to prevent the spread of weeds.

XV. EQUIPMENT CACHES

A. Food and/or equipment caches require advance authorization. When authorized, caches shall be neatly stored out of sight of roads and trails.

XVI. RESOURCE PROTECTION

A. Aesthetics: Permittee shall protect the scenic, visual and aesthetic values of the public lands used in the operations, and maintain premises on permitted grounds and areas to acceptable standards of repair, orderliness, and cleanliness.

B. Rehabilitation: After camps and other temporary facilities are dismantled, insofar as practical, the area shall be left in a natural state.

C. Sanitation: Permanent toilet facilities shall be used wherever available. If permanent toilets are not available, self contained portable toilets, pit type toilets, privies or latrines, or 'cat holes' shall be used for disposal of human waste. Waste from self contained toilets must be disposed of at a State approved sewage disposal facility. Pit type toilets or 'cat holes' must be located at least 200 ft. from any water source. When abandoned, toilet pits shall be covered with a minimum of 12" of topsoil and back filled to pre-existing grade. While in use, human waste in pits shall be covered with a layer of topsoil or lime after each individual use.

D. Trash Disposal: All trash generated by the permitted operation shall be packed out of public land. No trash or litter shall be allowed to accumulate on the grounds. Combustible trash may be burned when campfires are authorized. Trash shall not be buried on public land.

E. Dead animals and their remains shall be disposed of at least 200 ft. away from springs, streams, lakes, ponds, campsites, river access sites and roads/trails.

F. Waste or by-products of any kind shall not be discharged into any river, stream, reservoir, lake or pond.

G. Soils: Permittee shall conduct the permitted operations in a manner which prevents severe rutting, or severe soil erosion.

H. Vegetation Damage/Removal: All operations shall be conducted in a manner which prevents damage to or loss of vegetation cover. Cutting or clearing of standing trees, alive or dead, or clearing and cutting of shrub/groundcover for any reason is not authorized under this permit.

I. Firewood Cutting: Firewood may be cut on public land only for campsite use while on public land, and may not be transported off the public lands without a separate firewood cutting permit. Only dead and down wood shall be cut for firewood.

J. Protection of Public Property: Signs, equipment, markers, fences, livestock watering facilities or any other property found on public land shall not be damaged, destroyed, defaced, removed, or disturbed.

K. Cultural Resources: Archeological and historical values including, but not limited to, petroglyphs, ruins, historic structures, cabins and artifacts shall not be damaged, destroyed, removed or disturbed. Any hidden cultural values uncovered through authorized operations shall be left in place, and the Field Office Manager shall be notified of their discovery. Fires and stoves are prohibited inside old cabins or

historic structures. Cutting or gathering firewood or lumber from historic structures, standing or collapsed, is prohibited.

L. Facility Construction: Construction of permanent facilities or improvements of any kind, including but not limited to roads, trails or structures, is not authorized under this permit.

M. All animals brought onto public land in connection with the permitted operations must be under control at all times.

XVII. PERFORMANCE EVALUATION

A. The BLM shall conduct periodic inspections and performance evaluations of the permittee's operations and compliance with the terms, conditions and stipulations of the permit.

B. Violations and Penalties: Any violation of the permit terms, conditions and stipulations may be subject to penalties prescribed in 43 CFR 8372.0-7, which may include fines up to \$1,000 and/or imprisonment up to 12 months. Additionally, any such violation may result in permit revocation, suspension or probation. Violations may also be cause for the BLM to deny approval of a Permit or Operating Authorization for subsequent years. If a permit is canceled or suspended, permit applications will not be approved for any person connected to or affiliated with the operation under a canceled or suspended permit.

1. Revocation: This permit may be canceled or revoked without compensation for any failure to comply with the terms, conditions and stipulations hereof, and operations on public land shall immediately cease upon cancellation. After a permit is canceled or revoked, any commercial use of public lands shall be in violation of federal regulations, and the Bureau may deny future authorization for use of public lands.

2. Suspension: This permit may be temporarily suspended, in whole or in part, without compensation for any failure to comply with the terms, conditions and stipulations hereof, and operations on public land shall cease immediately upon suspension. After a permit is suspended, any commercial use of public lands shall be in violation of federal regulations. The Bureau may reissue authorization for use of public lands after corrective action is taken by the permittee and the operation is under compliance with the terms, conditions and stipulations.

3. Probation: The permit may be placed under special scrutiny for any failure to comply with the terms, conditions and stipulations hereof, and operations on public land shall be allowed to continue while under probation.

XVIII. CERTIFICATION

A. I have read these terms, conditions and stipulations and understand that I must abide by them while performing activities in connection with the permitted operations.

Date

Signature

Name

ATTACHMENT C
CACTUS FERRUGINOUS PYGMY-OWL
CONSERVATION MEASURES

The following conservation measures will be implemented to minimize potential negative impacts from recreational sightseeing tour use on the cactus ferruginous pygmy-owl and related resource values:

1. Tours will stay on already established roads, as shown on the Operating Authorization and shown on Map 1.
2. Overnight camping may be authorized on a case by case basis in camping areas identified in advance, and designated on already disturbed areas that are > 1/4 mile from suitable pygmy-owl habitat.
3. If overnight use is authorized, operators will be required to bring firewood to prevent potential damage to vegetation from firewood gathering. Fires will be completely extinguished before camp sites are vacated.
4. In areas with suitable habitat, the tour operations will avoid large concentrations of people, vehicles, overnight camping, and the use of generators and other noisy equipment, especially during the most sensitive time of the pygmy-owl's breeding season, from February 1 to July 31.
5. If vegetation will be removed or if noise impacts will occur within 1/4 mile of suitable habitat, the area will be surveyed for 2 consecutive years prior to disturbance to determine if pygmy-owls are using the area.
6. An ongoing annual pygmy owl survey program will be implemented along the tour routes to determine if pygmy owls are using the area.
7. Cigarettes and other smoking materials will be disposed of in a proper manner to reduce the potential for wildfires. Operators will be notified of any fire restriction orders in effect for the area, and will abide by such restrictions.
8. Regular stopping points (overlooks, interpretive sites, picnic sites) for tour groups will be in designated areas outside of suitable habitat for the pygmy-owl. Stops at scenic overlooks will be directed to already disturbed areas so no vegetation will be impacted.
9. Tour guides will be familiar with Pygmy-owl habitat and basic life history, and incorporate that information in the trip talk. Information on the pygmy owl and other threatened and endangered species can be obtained from the Fish and Wildlife Service website at <http://arizonaes.fws.gov>.